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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/700,747	11/20/2000	Benyahia Nasli-Bakir		4239

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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/700,747

Applicant(s)

NASLI-BAKIR ET AL.

Examiner

William P. Fletcher III

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-46 and 56-95 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-46 and 59-95 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/10/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Receipt is acknowledged of applicant's response filed 13 Dec. 2005. No claims were amended. Claims 39-46 and 56-95 remain pending.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 10 Jan. 2006 was filed after the mailing date of the first Office action following and RCE on 13 Sep. 2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

3. With respect to the references cited therein, none is considered by the examiner to be any more applicable against the claims than those already of record (see MPEP § 706.02).

### ***Response to Arguments***

4. Applicant's arguments, see the response, filed 13 Dec. 2005, with respect to the prior art rejections based on Perciwall as a primary reference, have been fully considered and are persuasive. The particular roller applicator of Perciwall appears to be critical to the invention disclosed in that reference and there is no motivation to apply the resin/hardener in the form of strands or to utilize the particular applicator recited in the claims. Consequently, the rejections set-forth at paragraphs 11-13 and 19 of the Office action mailed 13 Sept. 2005 are withdrawn.
5. Applicant has not presented any specific arguments against the other objections and rejections set-forth in the Office action mailed 13 Sept. 2005. These rejections are maintained.

### ***Specification***

Art Unit: 1762

6. The specification is objected to for the reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. **Claim 94 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

This claim is rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. **Claim 94 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

This claim is rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

***Claim Rejections - 35 USC § 103***

Art Unit: 1762

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. **Claims 39, 41-45, 56-59, 70-76, 78-82, 84-87, 89-93, and 95 rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson (EP 0 207 024 A2) in view of Lehnert (WO 89/05221 A1).**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

14. **Claims 46, 83, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson in view of Lehnert, as applied to claims 49, 80, and 87, respectively, above, in further view of Perciwall (EP 0 016 740 A1).**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

15. **Claims 40 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson in view of Lehnert, as applied to claims 39 and 76, respectively, above, and further in view of Menger (US 2,015,806 A).**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

**16. Claims 60-64 and 66-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson in view of Lehnert and Toshio (JP 61-040137).**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

**17. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson in view of Lehnert and Toshio, as applied to claim 60 above, and further in view of Perciwall.**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

**18. Claim 94 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andersson in view of Lehnert and Perciwall.**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

### ***Double Patenting***

19. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

Art Unit: 1762

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**20. Claims 70 and 76 are each rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9, and 18 of U.S. Patent No. 6,734,275 B2 in view of Andersson (EP 0 207 024 A2).**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

**21. Claim 94 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 9, and 18 of U.S. Patent No. 6,734,275 B2 in view of Perciwall (EP 0 016 740 A1 and Andersson (EP 0 207 024 A2).**

These claims are rejected for the same reasons set-forth under this heading in the Office action mailed 13 Sept. 2005.

### ***Conclusion***

**22.** The prompt development of clear issues in the prosecution history requires that applicant's reply to this Office action be fully responsive (MPEP § 714.02). When filing an amendment, applicant should specifically point out the support for any amendment made to the disclosure, including new or amended claims (MPEP §§ 714.02 & 2163). A fully responsive reply to this Office action, if it includes new or amended claims, must therefore include an explicit citation (i.e., page number and line number) of that/those portion(s) of the original disclosure which applicant contends support(s) the new or amended limitation(s).

23. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9 AM to 5 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 1762

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*WPF 2/14/2006*  
William Phillip Fletcher III  
Patent Examiner, USPTO  
Art Unit 1762

  
TIMOTHY MEEKS  
SUPERVISORY PATENT EXAMINER